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Letter dated 17 April 2000 from the Permanent Representative of Togo to the United Nations addressed to the President of the Security Council

In reference to my letter of 24 March 2000 (S/2000/256), I have the honour to transmit herewith the report of the Interministerial Commission of Inquiry on the allegations contained in the report of the United Nations Panel of Experts charged with investigating violations of the sanctions against the União Nacional Para a Independência Total de Angola (UNITA) (S/2000/203).

I take this opportunity to draw to your attention the fact that the Commission of Inquiry, which was the subject of my previous letter, was made up of the following public figures:

Mr. Atsu-Koffi Amega, President of the Constitutional Court;

Professor Ouattara Fambaré Natchaba, First Vice-President of the National Assembly; and

Mr. Fessu Lawson, President of the Supreme Court.

I should be very grateful if you would have the text of this letter and its annex issued as a document of the Security Council.

(*Signed*) Roland Y. **Kpotsra**

00-39682 (E) 240400 240400

Annex to the letter dated 17 April 2000 from the Permanent Representative of Togo to the United Nations addressed to the President of the Security Council

Report of the Interministerial Commission of Inquiry on the allegations contained in the report of the United Nations Panel of Experts (S/2000/203)

Lomé, 14 April 2000

I. Introduction

The Government of Togo conveys its appreciation to the United Nations Panel of Experts chaired by Mr. Anders Möllander and charged with investigating violations of the sanctions against the União Nacional Para a Independência Total de Angola (UNITA), and takes this opportunity to reply in all sincerity and objectivity to the allegations contained in its report (S/2000/203 of 10 March 2000).

First, however, the Government wishes to thank Mr. Möllander and his Panel for having drawn its attention to the acts which have allegedly been committed by the Togolese authorities and Togolese individuals, and which, in their opinion, constitute violations of the sanctions against UNITA.

The Government of Togo also requests the President of the Security Council to give sympathetic consideration to this reply to the report of the Panel of Experts.

The international community and the Security Council cannot doubt that the Togolese head of State has always done his utmost to assist in the quest for peace and security in Africa, and particularly in our subregion, as demonstrated by his mediation efforts in various African countries.

Thus, President Eyadema has always taken advantage of Togo's excellent relations with all countries to promote the peaceful settlement of conflicts in Africa such as the border dispute between Mali and Burkina Faso, the civil wars in Chad and Sierra Leone, and the dispute between Nigeria and Cameroon on the subject of the Bakassi peninsula, to cite only a few examples.

In addition, in an effort to preserve peace and security in the Economic Community of West African States (ECOWAS), President Eyadema, together with President Obasanjo, initiated a Protocol on Non-Aggression that was signed in Lagos by the 16 mem States on 22 April 1978.

Furthermore, with a view to strengthening intervention capacities of the Organization of Afr Unity (OAU) Mechanism for Conflict Preven Management and Resolution, President Eyad proposed at the 1994 session of that Organization, in Tunis, that a pan-African peacekeeping force sh be created; this proposal was endorsed by his Afr peers and supported by the major Powers.

President Eyadema's mediation efforts extended to the situation that has existed in Angol over 20 years. Togo has maintained an ong relationship with that country and has sough promote peace between the parties to the con raging in Angola.

Togo considers that lasting peace and nati reconciliation in Angola can be ensured only thr political dialogue, not through the use of weapons.

This position has not always been understood.

On three occasions, in order to dispel suspicion, the Togolese Republic has opened its d to groups of Angolan public figures sent by Presi dos Santos in order to investigate UNITA activitie Togo. All these investigations have shown that t suspicions were groundless.

Recently, at the initiative of the Ang authorities, a high-level delegation from the Ang Ministry of the Interior, led by Mr. José Maria Cam Representative of the Director-General of Services of the Department of Special Services, vi Togo from 4 to 10 March 2000 in order to v allegations that UNITA troops were being trained a National Commando Training Centre in Kpéwa, kilometres from Lomé at the Kara garrison.

During its visit, the Angolan deleg determined that there was nothing in the Ce

documents and training rosters to support the theory that UNITA soldiers had received any military training whatever there; on the contrary, the head of delegation, Mr. Campos, acknowledged that no Angolan had spent time at the Centre, and expressed the hope that it would continue to fulfil its African mandate as it had done in the past and that it would one day admit Angolans for military training.

It should also be recalled that it was with a view to a peaceful settlement of the Angolan conflict that Mr. Alioune Blondin Beye, Special Representative of the Secretary-General for Angola, stated in Lomé on 26 June 1998 that the Secretary-General had sent him to seek the good offices of President Eyadema.

President Eyadema agreed to this role and informed the Secretary-General of the United Nations regularly of the steps that he was taking in order to carry out this mission.

Despite President Eyadema's efforts, the Angolan authorities successfully kidnapped Mr. Savimbi's eldest son, Araujo, a 19-year-old student, in Lomé in October 1999. On 12 November 1999, the attempted abduction of Araujo's younger brother, 17-year-old Eloy Sakaita, also a student, by Mr. Manuel da Silva Casimiro, Second Secretary at the Angolan Embassy in Lagos, failed only because of the student's vigilance in alerting the Togolese security forces in time.

After his arrest on kidnapping charges, the Second Secretary confessed, claiming to have acted on his own initiative in the hope of a promotion. Despite this hostile act and contrary to diplomatic practice, President Eyadema ordered him to be released and turned over to the Angolan authorities.

It is incomprehensible that after investing so much in the promotion of peace and security in Africa, Togo and its President have been the subject of so many unjustified accusations.

The Government of Togo hereby affirms that it has been falsely accused of violating the sanctions imposed on UNITA and that those charges will not stand up to any in-depth analysis.

However, before embarking on such an analysis, it is important to summarize briefly the progressive development of international censure and the embargo measures decreed by the United Nations against UNITA, led by Mr. Jonas Savimbi.

Mr. Savimbi, having broken with the Angolan Government headed by Mr. dos Santos, had been leading a war against that Government since 1975, a fact which had led to the imposition of several United Nations sanctions:

- In 1993, concerning arms, related *matériel* equipment and petroleum products;
- In 1997, concerning the freezing of bank accounts, the closing of UNITA offices abroad and the prohibition of foreign travel by its officials; and
- In 1998, prohibiting the purchase of diamonds mined in areas controlled by UNITA.

When these sanctions proved ineffective, the Security Council, at the recommendation of the Secretary-General, established a Panel of Experts in its resolution 1237 (1999) in order to consider the origin of violations concerning weapons trafficking, provision of petroleum products, the diamond trade and the movement of UNITA funds.

The report of this Panel of Experts harshly accuses Togo in allegations that are vague, false and even defamatory.

II. Critique of the methods used by the Panel of Experts in gathering the allegations against Togo

In paragraph 11 of its report, the Panel of Experts stated that, in its work, it had "been especially careful to use only information that [had] been confirmed or corroborated by more than one source in which the Panel [had] confidence". Yet this principle was not applied by the experts, who contented themselves with statements by only one party, namely UNITA deserters and defectors who have gone over to the Luanda Government.

This is true of the statements made by the man known as Kallias, such as those cited in paragraphs 32 and 33 among others.

Were these statements confirmed or corroborated by other evidence?

There is no proof that this is the case. It is a principle of law, as far as the gathering of evidence is concerned, that anyone bringing an action in court or

making an accusation against a third party has an obligation to prove it. The Panel of Experts should thus have sought other elements to confirm the allegations of this Kallias. But the experts contented themselves with compiling rumours and gossip that have not been corroborated by any convincing evidence.

Can one really give credence to such obviously fanciful and incidental statements?

Can a United Nations report rely on all this nonsense, which is nothing more than scandalmongering, to make such grave allegations against a State and its President, a man who is recognized for his role in the resolution of inter-African conflicts?

III. Examination of the allegations contained in the report

The allegations against the Togolese Government touch on each of the areas listed in the report:

- Violations of the embargo on arms and military equipment;
- Violations of the embargo on petroleum and petroleum products;
- Violations of the embargo on diamonds;
- Violations of the sanctions on UNITA representation and travel abroad;
- Violations of the sanctions on UNITA assets and finances.

The Togolese Government categorically refutes each of these allegations:

A. Violations of the embargo on arms and military equipment

Several allegations have been made against Togo concerning the purchase of arms and military equipment that were reportedly stored in Togo and transferred to the real consignee, UNITA: the report mentions SAM6 missiles and a BM-27 Multiple Launch Rocket system that came from Ukraine.

On this point, Togo acknowledges that in 1995 UNITA officials requested the assistance of the Minister of National Defence in acquiring military equipment. These requests continued until 1997. In the meantime, UNITA presented to the Minister of National Defence documents showing that this procedure had already been used with several other countries.

It was on the basis of this information that the Minister of National Defence then instructed the Chief of Staff of the Togolese armed forces to make all the practical arrangements for the ordering of this equipment.

The head of State and Commander-in-Chief was furious when he was informed of this later. He emphasized that this initiative of the Minister of National Defence contravened the latest United Nations resolution and, moreover, was at odds with his own role as facilitator between the Luanda Government and UNITA. The head of State therefore considered it inconceivable that our country should enable one of the parties to obtain supplies of military equipment. He clearly expressed his conviction that the Angola problem could be resolved only through dialogue, not through arms.

In the light of the above, the head of State first ordered the confiscation of the equipment in question and then relieved the Minister of National Defence of his duties on account of his gross misconduct.

The head of State steadfastly and categorically refused the repeated demands of UNITA representatives for the restitution of the equipment.

With regard to the use of false end-user certificates, it is worth referring to the statement made by the Permanent Representative of Togo to the United Nations, Mr. Kpotsra:

"In one of those very few cases where the information given by a defector, in this case General Bandua, was indeed verified by the Panel of Experts, the information proved to be unfounded. To be specific, let me refer to paragraph 40 of the report:

'General Bandua stated that he thought that a BM-27 (Hurricane) Multiple Launch Rocket system had come from Ukraine, via Togo. However, the Government of Ukraine reported that there were no authorized arms sales from Ukraine to Togo during the relevant period.'

On this point, the report concludes again in paragraph 40:

'The Panel's investigation turned up no evidence that the Government of Ukraine sold arms or otherwise

provided military assistance directly or indirectly to UNITA.'

So why does the Panel not exonerate Togo in this case in the same way as it exonerated Ukraine?"

The following observations are also worth making:

- The report does not indicate the dates of the certificates; were they before or after 15 September 1993?
- Nor is there any indication who signed them.
- Even if these certificates did actually exist, nothing proves that the products certified were sent to UNITA.

The report is vague in this respect, leading to serious confusion, particularly since the same report mentions a disagreement between Mr. Savimbi and the Togolese head of State over the arms intended for Mr. Savimbi.

Thus, the report shows that the efforts of UNITA in Togo failed.

With regard to the transit of arms and military equipment, the report does not specify either the period in question (when the aircraft arrived in Lomé) or the flight plan. The lack of clarification on so many details makes for a muddled report. Clarification would have enabled the Togolese Government to respond.

Togo does not exclude the possibility that it was misled at some point. However, under no circumstances should any error regarding the destination of the arms be seen as the result of a deliberate violation.

B. Violations of the sanctions on petroleum and petroleum products (refuelling of aircraft in Togo)

The Togolese Government cannot make any definite statement regarding the assertion that aircraft involved in sanctions violations had managed on some occasions to escape the vigilance of the competent authorities monitoring Togolese airspace and had been granted authorization for overflight and/or landing in Togolese territory.

To do so, information on the type and registration of the aircraft in question would be necessary, as well as the dates and locations of the refuelling.

In all cases, it should be borne in mind that the refuelling services do not request authorization from the Government before selling their products. Likewise, they do not inquire into the origin of the aircraft to be refuelled, nor the nature of their cargo. Fuel is sold on the basis of free trade.

C. Violations of the sanctions on diamonds

General Bandua alleges that he gave the Togolese President a "passport-sized" packet of diamonds.

Togo is not a diamond-marketing centre; the panellists themselves know this and are aware of the locations where diamonds coming from UNITA-occupied areas are sold openly.

It is therefore dismaying to think that a head of State could be party to the tactics to which the UNITA representative, General Bandua, refers.

True, gifts may be exchanged between heads of State on the occasion of an official visit; but Mr. Savimbi is not a head of State and no gifts have ever been exchanged between the two men.

The General, who is known for his frequent shifts of position, has never been alone with Mr. Savimbi in the presence of President Eyadema, for the President, whenever he receives any visitor, ensures that at least one member of his staff is present.

D. Violations of the sanctions concerning representation and travel abroad by members of UNITA

Diplomatic passports could have been issued before the sanctions. The persons who benefited or could have benefited from this type of privilege commonly extended by States were not, to the knowledge of the Togolese authorities, identified as being subject to sanctions.

Furthermore, it is difficult to avoid substitutions of names and the use of false names; in any case, the Government of Togo is not responsible for these deceptions, nor can they be interpreted as constituting sanctions violations by Togo.

As for the alleged secret relationship between the representatives of Mr. Savimbi and certain people close to the Togolese head of State, it is arguable that, if Mr. Savimbi did form such secret relationships, it was because he felt isolated from President Eyadema.

That is not impossible, for the UNITA network could not be completely destroyed after the 1998 sanctions, and that would have forced its members to go underground again and operate illicitly.

It is not unreasonable to believe that, faced with the isolation of Mr. Savimbi, individuals representing themselves as close associates of President Eyadema, but in reality far removed from him, could have taken advantage of the situation for their own purposes.

E. Violations of the sanctions concerning the material and financial assets of UNITA

President Eyadema has never received a cent from Mr. Savimbi, and the latter has never at any time given him money. Surely such a large sum ($5 million) would have been deposited in a bank. Have the experts attempted to verify this allegation with the local banks?

Such an amount of money could not have been placed in the hands of one person, when UNITA deposits are known to be in foreign banks.

The Togolese authorities would be very interested in being shown the proof of a $5 million deposit.

Furthermore, the report contains a series of monstrous contradictions.

It is not in dispute that Mr. Savimbi's children were received in Lomé, like many other Africans in difficult circumstances, essentially for humanitarian reasons. For those reasons, President Eyadema spent money from his own pocket for the children, as the report acknowledges.

It is therefore irresponsible to maintain that President Eyadema could have pocketed part of the amount Mr. Savimbi deposited with him; this is an attack on the honour of a head of State.

Considering the gravity of the accusation, which questions the honour and dignity of President Eyadema, it should have been supported not by generalities, but by specific and verifiable facts.

IV. Conclusion

The report contains no serious or substantive elements to enlighten the members of the Security Council; therefore, it creates doubt in their minds.

Consequently, they should plainly and simply refrain from endorsing it.

Togo wishes to reiterate its desire to contribute to the peaceful settlement of the Angola problem. In that regard, it reaffirms that it will never become a purveyor of weapons to either of the parties.

As an indication of its good faith, the Government of Togo has:

1. Revoked and is continuing to recall all the Togolese passports issued to certain members of UNITA. Likewise, the Government of Togo will apply the same measures to other passport-holders identified by the Committee on sanctions;

2. Committed itself to ensuring strict observance of the various sanctions imposed on UNITA;

3. Established a national committee to follow up the various United Nations resolutions imposing sanctions on UNITA, and to monitor their full execution;

4. Invited the United Nations experts to return to Togo, as their previous mission did not allow a constructive dialogue to be established.